

## Article - Public Safety

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§13A–716.

(a) (1) Voting by members of a general or special court–martial on the findings and on the sentence shall be by secret written ballot.

(2) The junior member of the court shall count the votes.

(3) The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) (1) The military judge shall rule on all questions of law and all interlocutory questions arising during the proceedings.

(2) (i) Subject to subparagraph (ii) of this paragraph, any such ruling made by the military judge on any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused is final and constitutes the ruling of the court.

(ii) The military judge may change the ruling at any time during the trial.

(3) Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in § 13A–717 of this subtitle, beginning with the junior in rank.

(c) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge that:

(1) the accused must be presumed to be innocent until guilt is established by legal and competent evidence beyond a reasonable doubt;

(2) in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted;

(3) if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) the burden of proof to establish the guilt of the accused beyond reasonable doubt is on the State.

(d) (1) Subsections (a), (b), and (c) of this section do not apply to a court-martial composed of a military judge only.

(2) The military judge of a court-martial composed of a military judge only shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence.

(3) The military judge of a court-martial composed of a military judge only shall make a general finding and shall in addition, on request, find the facts specially.

(4) If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

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